

# **High Level Conference on the Future of the European Court of Human Rights**

## **Draft Brighton Declaration**

**Draft presented on 23 February 2012**

The High Level Conference meeting at Brighton on 19 and 20 April 2012 at the initiative of the United Kingdom Chairmanship of the Committee of Ministers of the Council of Europe ("the Conference") declares as follows:

1. The States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") reaffirm their deep and abiding commitment to the Convention, and to the fulfilment of their obligation under the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention.
2. The right of individual application to the European Court of Human Rights ("the Court") is a key component of the machinery for protecting the rights and freedoms set forth in the Convention. The European Court of Human Rights ("the Court") has made an extraordinary contribution to the protection of human rights in Europe for over 50 years.
3. The States Parties and the Court share responsibility for realising the effective implementation of the Convention, underpinned by the fundamental principle of subsidiarity. States Parties must respect the rights and freedoms guaranteed by the Convention, and must effectively resolve violations at the national level. The Court acts as a safeguard for violations that have not been remedied at national level, in accordance with its subsidiary jurisdiction to interpret and apply the Convention. Where the Court finds a violation, States Parties must abide by the final judgment of the Court.
4. The States Parties and the Court also share responsibility for ensuring the viability of the Convention mechanism. The States Parties are determined to work in partnership with the Court to achieve this, drawing also on the important work of the Parliamentary Assembly of the Council of Europe, the Commissioner for Human Rights, and other institutions and bodies of the Council of Europe, and working in a spirit of co-operation with civil society and the representatives of applicants to the Court.
5. The High Level Conference at Interlaken ("the Interlaken Conference") in its Declaration of 19 February 2010 noted with deep concern that the number of applications brought before the Court and that the deficit between applications introduced and applications disposed of continued to grow. It considered that this situation caused damage to the effectiveness and credibility of the Convention and its supervisory mechanism and represented a threat to the quality and the consistency of the case law and the authority of the Court. It therefore adopted an Action Plan to address these issues.
6. The High Level Conference at Izmir ("the Izmir Conference") in its Declaration of 27 April 2011 welcomed the concrete progress achieved following the Interlaken Conference, but noted with concern the continuing increase in the number of applications brought before the Court. It considered that the provisions introduced by Protocol No. 14 to the Convention, which came into force on 1 June 2010, would not provide a lasting and comprehensive solution to the problems facing the Convention system. The Conference therefore adopted a Follow-up Plan building on the Action Plan adopted by the Interlaken Conference.
7. The States Parties are very grateful to the Swiss and Turkish Chairmanships of the Committee of Ministers for having convened these conferences, and to all those who have helped fulfil the action and follow-up plans. The results achieved within the framework of Protocol No. 14 remain broadly encouraging, particularly as a result of the measures taken by the Court and its Registry to increase efficiency and address the number of applications pending before the Court. The growing number of potentially well-founded applications pending before the Court is however a matter of deep concern.

8. In light of the current situation of the Convention and the Court, the steps foreseen by the Interlaken and Izmir Conferences must continue to be fully implemented. Further measures are also needed to ensure that the Convention and the Court remain effective and can continue to protect the rights and freedoms of over 800 million people in Europe.

#### **A. Implementation of the Convention at national level**

9. The full implementation of the Convention at national level requires national authorities to take effective measures to prevent violations. All public officials should discharge their responsibilities, and all laws and policies should be formulated, in a way that gives full effect to the Convention.
10. National authorities must also provide means by which remedies may be sought for alleged violations of the Convention. National courts and tribunals should take into account relevant aspects of the Convention and the case law of the Court in formulating their judgments.
11. Collectively, these measures should reduce the number of violations of the Convention. They would also reduce the number of well-founded applications presented to the Court, thereby helping to control its workload.
12. The Conference therefore:
  - a) Affirms the strong commitment of the States Parties to fulfil their primary responsibility to implement the Convention at national level;
  - b) Recalls the recommendations of the Committee of Ministers to the States Parties on the implementation of the Convention at national level, and strongly encourages the States Parties to continue to take full account of these recommendations in their development of policies and practices to give effect to the Convention;
  - c) In particular, expresses the determination of the States Parties to ensure effective implementation of the Convention at national level by taking the following specific measures, so far as relevant:
    - i) Establishing, if they have not already done so, an independent National Human Rights Institution in compliance with the Paris Principles;
    - ii) Implementing practical measures to ensure that policy and legislation developed by the executive of each State Party complies fully with the rights and freedoms set out in the Convention;
    - iii) In particular, reporting systematically to national parliaments on the compatibility of draft legislation with the Convention, and encouraging that this information be taken into account in the legislative process;
    - iv) Considering the introduction of new domestic legal remedies, whether of a specific or general nature, for violation of the rights and freedoms under the Convention;
    - v) Enabling and encouraging national courts and tribunals to take into account the relevant principles of the Convention, in light of the case law of the Court, in conducting proceedings and formulating judgments;
    - vi) Specifically, ensuring that litigants are able, within the appropriate parameters of national judicial procedure but without unnecessary impediments, to draw to the attention of national courts and tribunals any relevant jurisprudence of the Court;
    - vii) Providing all public officials with relevant information about the obligations under the Convention;
    - viii) Training all public officials working in the justice system, responsible for law enforcement, or responsible for the deprivation of a person's liberty in how to fulfil obligations under the Convention;

- ix) Providing appropriate information and training about the Convention in the professional development of lawyers and prosecutors and, where appropriate, in the training and study of judges; and
- x) Providing information on the Convention to potential applicants, particularly about the scope of its protection, the jurisdiction of the Court and the admissibility criteria;

And invites the Committee of Ministers to take account of these priorities when examining the reports provided by the States Parties on their implementation of the Declaration adopted by the Interlaken Conference; and

- d) Encourages the States Parties, if they have not already done so, to:
  - i) Translate significant judgments of the Court and the Court's Practical Guide on Admissibility Criteria into national languages, where this is necessary for them to be properly taken into account; and
  - ii) Contribute to the Human Rights Trust Fund.

## **B. Council of Europe support for national implementation of the Convention**

13. The Council of Europe plays a crucial role in assisting and encouraging national implementation of the Convention, as part of its wider work in the field of human rights, democracy and the rule of law. The provision of technical assistance to national authorities, whether provided by independent experts or bilaterally by the authorities of other States Parties, disseminates good practice and raises the standards of human rights observance in Europe.

14. The Conference therefore:

- a) Recognises and reaffirms the importance of support by the Council of Europe for the national implementation of the Convention; expresses its appreciation to those who arrange and participate in programmes to this end, including the Human Rights Trust Fund; and emphasises that this support should be provided in an efficient manner with reference to defined outcomes, in co-ordination with the wider work of the Council of Europe;
- b) To this end, invites the Secretary General to advise how better national implementation of the Convention might be assisted and encouraged by the Council of Europe, including through:
  - i) Strengthening the delivery of the Council of Europe's technical assistance and co-operation programmes;
  - ii) Improving co-ordination between the various Council of Europe actors in the provision of assistance;
  - iii) Improving targeting of technical assistance, particularly by introducing a more country-specific approach to technical assistance;
  - iv) Implementing closer co-operation with the European Union in defining priorities and running joint programmes; and
  - v) Assisting the Committee of Ministers in the supervision of the execution of judgments by co-ordinating technical assistance to States Parties in respect of the implementation of judgments;

And invites the Committee of Ministers to take any consequent decisions as soon as possible;

- c) Encourages all States Parties to make full use of technical assistance where required, and to give and receive bilateral technical assistance in a spirit of open co-operation for the full protection of human rights in Europe; and
- d) Invites the Committee of Ministers to consider whether there are circumstances in which it would be appropriate to require a State Party to accept technical assistance.

### **C. Interaction between the Court and national authorities**

15. The States Parties to the Convention are obliged to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, and to provide an effective remedy before a national authority for everyone whose rights and freedoms are violated. These responsibilities are fulfilled by the executive, legislative and judicial functions of every State Party.
16. The Court provides an authoritative interpretation of the Convention, and a safeguard for individuals whose rights and freedoms are not secured at the national level. By reviewing the actions of national authorities, the Court ensures that the States Parties are complying with their obligations under the Convention.
17. Each State Party enjoys a considerable margin of appreciation in how it applies and implements the Convention. This reflects that national authorities are in principle best placed to apply the Convention rights in the national context. The margin of appreciation implies, among other things, that it is the responsibility of democratically-elected national parliaments to decide how to implement the Convention in legislation, and for independent and impartial national courts and tribunals to apply the Convention in reasoned judgments. The role of the Court is to review decisions taken by national authorities to ensure that they are within the margin of appreciation.
18. The States Parties and the Court therefore have a joint responsibility to ensure the effectiveness of the Convention system, and must work together in a spirit of co-operation to achieve this.
19. The Conference therefore:
  - a) Welcomes the development by the Court in its case law of principles such as subsidiarity and the margin of appreciation which clarify the nature of the Court's role; and encourages the Court to give great prominence to these principles in its judgments;
  - b) Concludes that the transparency and accessibility of the principles of subsidiarity and the margin of appreciation should be enhanced by their express inclusion in the Convention; and invites the Committee of Ministers to adopt the necessary amending instrument within one year;
  - c) Encourages a strong and open dialogue between the Court and national authorities as a means of developing an enhanced understanding of their respective roles in carrying out their shared responsibility for applying the Convention; and in particular welcomes and encourages further development of the dialogues between the Court and:
    - i) The highest courts of the States Parties, both through their judgments and in meetings;
    - ii) The Steering Committee for Human Rights on the principle of subsidiarity and on the clarity and consistency of the Court's case-law; and
    - iii) Government Agents on procedural issues, including consultation on proposals to amend the Rules of Court;
  - d) Concludes that, to clarify the respective roles of the Court and national judicial systems, the Court should be further enabled to deliver advisory opinions as follows:
    - i) For those States Parties that opt in, the highest national courts should have discretion to refer a point of interpretation of the Convention to the Court for an advisory opinion in the context of a specific case;
    - ii) The national court should set out the facts of the case as well as the question of interpretation of the Convention that the case raises and should give its own view on the question referred;
    - iii) The Court should give its opinion on the point of interpretation raised; leaving it to the national court to apply this to the facts of the case;

- iv) Advisory opinions should not be binding; but when applied by the national court the individual in whose case the opinion was sought should ordinarily have no further right to make an application to the Court on the same matter;

And invites the Committee of Ministers to adopt the necessary amending instrument within one year; and

- e) Recalls that the Izmir Conference invited the Committee of Ministers to consider further the question of interim measures under Rule 39 of the Rules of the Court; invites the Committee of Ministers to assess both whether there has been a significant reduction in their numbers and whether applications in which interim measures are applied are now dealt with speedily; and to propose any necessary action.

#### **D. Applications to the Court**

- 20. The right of individual application is a cornerstone of the Convention system. In principle, any person may apply to the Court on the basis that their rights and freedoms as set forth in the Convention have been violated. The right to present an application to the Court should be practically realisable, and States Parties must ensure that they do not hinder in any way the effective exercise of this right.
- 21. The admissibility criteria in Article 35 of the Convention define the applications the merits of which the Court should consider. The criteria relate to the substance of an application, as well as procedural requirements. The admissibility criteria should provide the Court with practical tools to ensure that it adjudicates only those cases in which the principle or the significance of the violation warrants consideration by the Court. They should also help regulate the number of cases before the Court.
- 22. It is therefore also important that the Court continues to apply strictly the admissibility criteria, in order to reinforce confidence in the rigour of the Convention system and to ensure that unnecessary pressure is not placed on its workload. The assessment of the admissibility of an application should always be undertaken by the Court with regard to the individual circumstances of the application.
- 23. The Conference therefore:
  - a) Concludes that the time limit under Article 35(1) of the Convention within which an application must be made to the Court should be shortened to [two OR three OR four] months; and invites the Committee of Ministers to adopt the necessary amending instrument within one year;

We present the options in this paragraph as alternatives.
-----------------------------------------------------------

- b) Concludes that Article 35(3)(b) of the Convention should be amended to remove the words "and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal"; and invites the Committee of Ministers to adopt the necessary amending instrument within one year;
- c) Concludes that Article 35 of the Convention should further be amended to make clear that an application is inadmissible if it is the same in substance as a matter that has been examined by a national court taking into account the rights guaranteed by the Convention, unless the Court considers that:
  - i) The national court clearly erred in its interpretation or application of the Convention rights; or
  - ii) The application raises a serious question affecting the interpretation or application of the Convention;

And invites the Committee of Ministers to adopt the necessary amending instrument within one year;

- d) Stresses the importance of the strict application of the admissibility criteria, both to ensure the efficient application of justice and to safeguard the respective roles of the Court and national authorities;

- e) Welcomes the increased provision by the Court of information to applicants on its procedures, and particularly on the admissibility criteria;
- f) Invites the Court to make specific provision in the Rules of Court for a separate decision to be made on admissibility at the request of the respondent Government when there is a particular interest in having the Court rule on the effectiveness of a domestic remedy which is at issue in the case; and
- g) Invites the Court to develop its case law on exhaustion of domestic remedies so as to require the Convention rights at issue in an application to have been raised formally in domestic proceedings.

## **E. Processing of applications**

- 24. The number of applications to the Court continues to increase. Very large numbers of applications are now pending before all of the Court's primary judicial formations. Many applicants, especially those with a potentially well-founded application, are obliged to wait for many years for a response to their application.
- 25. In light of the importance of the right of individual application, the Court must be able to dispose of inadmissible applications as efficiently as possible, with the least impact on its resources. The Court has already taken significant steps to achieve this within the framework of Protocol No. 14, which are to be applauded.
- 26. Repetitive applications mostly arise from systemic or structural issues at the national level. It is the responsibility of a State Party, under the supervision of the Committee of Ministers, to ensure that such issues and resulting violations are resolved as part of the effective execution of judgments of the Court.
- 27. In addition, the increasing number of cases pending before the Chambers of the Court is also a matter of serious concern. The Court should be able to focus its attention on potentially well-founded new violations.
- 28. The Conference therefore:
  - a) Strongly welcomes the advances made by the Court in its processing of applications, particularly the adoption of:
    - i) Its priority policy, which has helped it focus on the most important and serious cases; and
    - ii) New working methods, which streamline procedures particularly for the handling of inadmissible and repetitive cases, while maintaining appropriate judicial oversight;
  - b) Notes with great appreciation the Court's assessment that it can dispose of the outstanding clearly inadmissible applications pending before it by 2015; welcomes that this has been achieved in part by the secondment of national judges and high-level lawyers to the Registry of the Court; and encourages the States Parties to arrange further secondments in order to assist the Court in disposing of the outstanding clearly inadmissible applications;
  - c) Expresses continued concern about the large number of repetitive applications pending before the Court; welcomes the continued use by the Court of proactive measures, particularly pilot judgments, to dispose of repetitive violations in an efficient manner; encourages national authorities to work in a spirit of proactive co-operation with the Court to resolve large numbers of applications arising from systemic issues identified by the Court;
  - d) Notes with interest the intention of the Court to consider the introduction of a system of "default judgments" to deal with clearly repetitive cases that have not received redress within a fixed period; and invites the Court to consult representatives of applicants and the States Parties in its consideration;

- e) Invites the Committee of Ministers to consider whether further provision is required in the Convention to allow the Court to consider representative applications in respect of alleged violations that would affect a large number of potential applicants;
- f) Concludes that the Convention should be amended to allow for the appointment of additional judges to the Court with competence to determine clearly inadmissible and repetitive applications if at any time it appears that, in the view of the Committee of Ministers on the advice of the Court, the Court will not dispose of the outstanding clearly inadmissible applications pending before it in a reasonable time, or the adjudication of inadmissible and repetitive applications is seriously impairing the ability of the Chambers of the Court to determine cases pending before them;

OR

Concludes that the Convention should be amended to allow for the appointment for a defined period of additional judges to the Court if at any time it appears that, in the view of the Committee of Ministers on the advice of the Court, the Court cannot by any other means respond to applications pending before the Chambers of the Court in a reasonable time;

We present the two proposals above as alternatives.
-----------------------------------------------------

- g) Welcomes the Court's intention to consider applying a broader interpretation of the concept of well-established case-law within the meaning of Article 28(1) of the Convention, so as to adjudicate more cases under a summary Committee procedure;
- h) Invites the Court to consider, in partnership with Government Agents and the representatives of applicants, whether:
  - i) Decisions and judgments of the Court could be made available to the parties to the case a short period of time before their delivery in public;
  - ii) The claim for and comments on just satisfaction and costs could be exchanged earlier in proceedings before the Chamber and Grand Chamber; and
  - iii) Further measures could be put in place to encourage applications to be made online, and the procedure for the communication of cases consequently simplified;
- i) Reaches these conclusions with the intention that, with the full implementation of these measures with appropriate resources, the Court should be able to place all completed applications before a judicial formation within one year, and should be able to make all communicated cases the subject of a decision within two years of communication;
- j) Further expresses the commitment of the States Parties to work in partnership with the Court to achieve these outcomes; and
- k) Invites the Committee of Ministers, when adopting these measures, to determine criteria by which to assess whether, by 2015, further measures are required to enable the Court successfully to address its workload.

## **F. Judges and jurisprudence of the Court**

- 29. The authority and credibility of the Court depend in large part on the quality of its judges and the judgments they deliver.
- 30. The high calibre of judges elected to the Court depends in turn primarily on the quality of the candidates that are proposed to the Parliamentary Assembly for election. The States Parties' role in proposing candidates of the highest possible quality is therefore of fundamental importance to the continued success of the Court.

31. Judgments of the Court need to be both clear and consistent. This promotes legal certainty. It is particularly important when the Court deals with issues of general principle or where there are several cases dealing with differing aspects of the same issue. Clarity as to how principles set out in earlier case law are affected, if at all, by a new judgment enables potential applicants to assess more accurately the prospects of successfully bringing an application. It also allows the national authorities, including courts, to understand and apply the Convention, and in particular the full extent of their margin of appreciation, more precisely as they discharge their primary responsibility for securing the Convention rights. The Court has indicated that it is considering an amendment to the Rules of Court making it obligatory for a Chamber to relinquish jurisdiction where it envisages departing from settled case law.
32. A stable judiciary promotes the consistency of the Court. It is therefore in principle undesirable for any judge to serve less than the full term of office provided for in the Convention.
33. The Conference therefore:
  - a) [Welcomes the adoption by the Committee of Ministers of] the Guidelines on the selection of candidates for the post of judge at the European Court of Human Rights; encourages the States Parties to implement them effectively; and invites the Committee of Ministers to review the extent to which they are applied;]

Pending the adoption of these Guidelines by the Committee of Ministers.
-------------------------------------------------------------------------

- b) Welcomes the success to date of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights; notes that the Committee of Ministers has decided to review the functioning of the Advisory Panel after an initial three-year period; and invites the Parliamentary Assembly and the Committee of Ministers to discuss how the procedures for electing judges can be further improved;
- c) Welcomes the steps that the Court is taking to maintain and enhance the high quality of its judgments and in particular to ensure that the clarity and consistency of judgments are increased even further;
- d) In particular, invites the Court to have regard to the importance of consistency where judgments relate to aspects of the same issue, so as to ensure their cumulative effect continues to afford States Parties an appropriate margin of appreciation;
- e) In light of the central role played by the Grand Chamber in achieving consistency in the Court's jurisprudence, concludes that Article 30 of the Convention should be amended to remove the words "unless one of the parties to the case objects"; invites the Committee of Ministers to adopt the necessary amending instrument within one year; and expresses the intention of the States Parties to refrain from objecting to any proposal for relinquishment by a Chamber pending the entry into force of the amending instrument;
- f) Invites the Court to consider whether the composition of the Grand Chamber would be enhanced by the ex officio inclusion of the Vice Presidents of each Section;
- g) Welcomes the Court's long-standing recognition that it is in the interests of legal certainty, foreseeability and equality before the law that it should not depart without cogent reason from precedents laid down in previous cases; and reaffirms the importance of these considerations, which imply that principles established in the Court's case law should be clearly and precisely expressed, consistently applied in future cases, and departed from only in exceptional circumstances;
- h) Affirms that the requirement for consistency in the application of the Convention does not of itself imply any requirement for uniformity in the way the Convention is implemented in each State Party; and
- i) Concludes that Article 23(2) of the Convention should be amended to replace the age limit for judges by a requirement that judges must be no older than 65 years of age at the date on which their term of office commences; and invites the Committee of Ministers to adopt the necessary amending instrument within one year.



## **G. Implementation of judgments of the Court**

34. Each State Party has undertaken to abide by the final judgments of the Court in any case to which they are a party. Through its supervision, the Committee of Ministers ensures that proper effect is given to the judgments of the Court, including by the implementation of general measures to resolve wider systemic issues.
35. Through its procedures, the Committee of Ministers must therefore consider whether the measures taken by a State Party have effectively resolved a violation and, where this is not the case, exert effective pressure on the State Party to comply with its obligations. The Committee of Ministers should in particular take account of the number of applications to the Court that may result from a violation disclosing a systemic issue at national level, and should ensure that States Parties quickly and effectively implement pilot judgments.
36. The Conference therefore:
  - a) Invites the Committee of Ministers to continue to consider how to refine its procedures so as to ensure effective oversight of the execution of judgments, in particular through the further consideration of strategic and systemic issues;
  - b) Invites the Committee of Ministers to strengthen the publicity given to its meetings on the supervision of the execution of judgments, and to increase its engagement with civil society at those meetings;
  - c) Invites the Committee of Ministers to consider whether further measures or sanctions should be introduced to exert pressure on States that fail to implement judgments of the Court in a timely manner; and whether the imposition of certain sanctions should take place by default if certain criteria are met, unless the Committee of Ministers agrees that extenuating circumstances should permit their temporary suspension;
  - d) In particular, invites the Committee of Ministers to consider the introduction of a financial penalty where a failure to implement a judgment leads to a significant number of repetitive applications to the Court;
  - e) Encourages the executive authorities of States Parties to make action plans for the execution of judgments as widely accessible as possible, including through their publication in national languages; and to report each year to their national parliaments on the execution of judgments, and to encourage national parliaments to scrutinise these reports; and
  - f) Welcomes the Parliamentary Assembly's regular reports and debates on the execution of judgments.

## **H. Longer-term future of the Convention system and the Court**

37. This Declaration addresses the immediate issues faced by the Court. There will be further challenges in the longer term that must be overcome to secure the future effectiveness of the Convention system. It is therefore vital to establish a process to anticipate these challenges and develop a vision for the future of the Convention, so that future decisions are taken in a timely and coherent manner.
38. As part of this process, it will be necessary to consider the fundamental role and nature of the Court. The longer-term vision must secure the viability of the Court's key role in the system for protecting and promoting human rights in Europe. The right of individual application remains a key component of the Convention system. Future reforms must enhance the ability of the Convention system to address serious violations promptly and effectively.
39. Effective implementation of the Convention at national level will permit the Court in the longer term to take on a more focussed and targeted role. The Convention system must support States in fulfilling their primary responsibility to implement the Convention at national level.

40. In response to this, the Court could in future focus its efforts on serious or widespread violations, systemic and structural problems, and important questions of interpretation and application of the Convention. In any case, the Court should be called upon to remedy fewer violations itself, and should deliver fewer judgments; this will help to ensure that all of its judgments are significant, and consolidate its overall authority.
41. The Interlaken Conference invited the Committee of Ministers to evaluate, during the years 2012 to 2015, to what extent the implementation of Protocol No. 14 and of the Interlaken Action Plan had improved the situation of the Court. It provided that, on the basis of this evaluation, the Committee of Ministers should decide before the end of 2015, whether there is a need for further action. It further provided that, before the end of 2019, the Committee of Ministers should decide on whether the measures adopted have proven to be sufficient to assure sustainable functioning of the control mechanism of the Convention or whether more profound changes are necessary.
42. The Conference therefore:
- a) Welcomes the process of reflection on the longer-term future of the Court begun at the Interlaken Conference and continued at the Izmir Conference and at the informal Wilton Park conference;
  - b) Invites the Committee of Ministers to determine by the end of 2012 the process by which it will fulfil its further mandates under this Declaration and the Declarations adopted by the Interlaken and Izmir Conferences;
  - c) Further invites the Committee of Ministers to establish a Commission to consider the future of the Convention and the Court, which should comprise an equal number of experts appointed on the basis of their personal experience by each of the Court, the Committee of Ministers, the Steering Committee for Human Rights, the Parliamentary Assembly of the Council of Europe, and the highest national courts of the States Parties, in addition to representatives of applicants to the Court and of civil society;
  - d) Proposes that this Commission should be mandated within a defined period to consider and make recommendations about the future of the Convention system, including:
    - i) The future challenges to the enjoyment of the rights and freedoms guaranteed by the Convention;
    - ii) The way in which the Court can best fulfil its twin role of providing an authoritative interpretation of the Convention, and acting as a safeguard for individuals whose rights and freedoms are not secured at the national level;
    - iii) The nature of the mechanisms required, in addition to the Court, to ensure States Parties fulfil their responsibility to respect the rights and freedoms guaranteed by the Convention;
    - iv) The relationship between such mechanisms and other bodies and offices of the Council of Europe, including the Secretary General, the Committee of Ministers, the Parliamentary Assembly, and the Commissioner for Human Rights;
    - v) In addition, the relationship between such mechanisms and the national authorities, particularly the national courts and parliaments, of the States Parties; and
    - vi) The process by which to deliver the necessary changes.
  - e) Proposes that such a Commission should consider options for the future role and nature of the Court, including:
    - i) Giving the Court the discretion to select, with regard to defined criteria, those applications that it will consider judicially, thereby giving it complete control over its case list;
    - ii) In particular, mandating the Court to consider only those applications that are not the subject of well-established case law, or which respect for human rights as defined in the Convention requires it to consider;

- iii) Curtailing the Court's power to grant just satisfaction to applicants under Article 41 of the Convention;
- iv) Introducing a Statute for the Court, or some other simplified amendment procedure for the Convention; and
- v) Reviewing the procedure by which amendments to the Rules of Court are adopted.

#### **I. General and final provisions**

- 43. The accession of the European Union to the Convention will enhance the coherent application of human rights in Europe. The Conference therefore notes with satisfaction progress on the preparation of the draft accession agreement, and calls for a swift and successful conclusion to this work.
- 44. Where decisions to give effect to this Declaration have financial implications for the Council of Europe, the Conference invites the Court and the Committee of Ministers to quantify these costs as soon as possible, taking into account the budgetary principles of the Council of Europe and the need for budgetary restraint.
- 45. The Conference:
  - a) Invites the United Kingdom Chairmanship to transmit the present Declaration and the Proceedings of the Conference to the Committee of Ministers;
  - b) Invites the States Parties, the Committee of Ministers, the Court and the Secretary General of the Council of Europe to give full effect to this Declaration; and
  - c) Invites the future Chairmanships of the Committee of Ministers to ensure the future impetus of the reform of the Court and the implementation of the Convention.